

Knick v the Township of Scott - 2019

https://www.supremecourt.gov/opinions/18pdf/17-647_m648.pdf

Held:

1. A government violates the Takings Clause when it takes property without compensation, and a property owner may bring a Fifth Amendment claim under **§1983** at that time. . . .

(b) This Court has long recognized that property owners may bring Fifth Amendment claims for compensation as soon as their property has been taken, regardless of any other post-taking remedies that may be available to the property owner. . . .

Inverse condemnation is “a cause of action against a governmental defendant to recover the value of property which has been taken in fact by the governmental defendant.” . . . Inverse condemnation stands in contrast to direct condemnation, in which the government initiates proceedings to acquire title under its eminent domain authority. . . .

The Fifth Amendment right to full compensation arises at the time of the taking . .

a property owner has a Fifth Amendment entitlement to compensation as soon as the government takes his property without paying for it . . .

because a taking without compensation violates the self-executing Fifth Amendment at the time of the taking, **the property owner can bring a federal suit** at that time. . . . someone whose property has been taken by a local government has a claim under **§1983** for a “deprivation of [a] right[] . . . secured by the Constitution”

<https://www.shipmangoodwin.com/insights/us-supreme-court-reopens-the-federal-court-house-door-to-property-owners-takings-claims.html>

The decision points out repeatedly that the Takings Clause of the federal Fifth Amendment is part of the Bill of Rights, and that takings claims should be allowed to be brought in federal court in the same manner as claims raising freedom of speech, protection against unreasonable search and seizure, and other cornerstone constitutional protections . . .

The Knick decision, then, will make a big difference going forward in property rights cases in several ways. Overall, when state agencies and regulators regulate the use of land so severely as to substantially reduce or extinguish its value, or impose a condition that is not logical or proportional, asserting that the public interest allows them to do so without payment of just compensation, **the standard for litigating such claims will now tilt decidedly back toward property owners State and local governments will now have to defend**

against these claims in federal court. . . . Property owners will bring more claims for takings, because it will be faster and less expensive to proceed directly in federal court. And the property owner will now have the ability to recover attorneys' fees if it prevails.

42 U.S.C. § 1983 (the Civil Rights act of 1871) provides plaintiffs:

- Compensatory damages
- Punitive damages
- Attorney fees

The municipal government and the **individual officials** responsible for Takings Clause violations are those who become defendants if impacted property owners bring a federal § 1983 action.